

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

India Handicrafts, Inc.,

Plaintiff,

v.

Civil No. 08-5940 (JNE/JJG)
ORDER

Mariposa, Ltd.,

Defendant.

This case is before the Court on the motion of Mariposa, Ltd. (Mariposa), to dismiss for improper venue and the motions of India Handicrafts, Inc. (India), for summary judgment and for an order enjoining Mariposa from pursuing a parallel action in the United States District Court for the District of Massachusetts. The parties have completed their briefing, and oral argument is scheduled for Friday, March 6, 2009, at 2:00 p.m.

On November 7, 2008, India filed suit in this District seeking a declaratory judgment of non-infringement of Mariposa's copyright in a "long leaf server." On December 10, 2008, Mariposa filed suit against India in the District of Massachusetts alleging infringement of Mariposa's copyright in the long leaf server and unfair competition. On February 3, 2009, India moved to dismiss in the Massachusetts action in favor of this action. The Honorable Edward F. Harrington, United States District Court Judge for the District of Massachusetts, granted India's motion on February 25, 2009, and dismissed the Massachusetts action.

On March 4, 2009, counsel for Mariposa filed a letter with the Court indicating that Mariposa was withdrawing its motion to dismiss in light of the dismissal of the Massachusetts action and seeking twenty days to answer or otherwise respond to India's Complaint. Counsel for Mariposa also contended that the Massachusetts order moots India's motion for a permanent injunction. India has not responded. Accordingly, the Court denies as moot Mariposa's motion

to dismiss and India's motion for a permanent injunction. In addition, the Court denies India's motion for summary judgment.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. The hearing scheduled for Friday, March 6, 2009, at 2:00 p.m. is CANCELLED.
2. Mariposa's Motion to Dismiss [Docket No. 6] is DENIED AS MOOT.
3. India's Motion for Permanent Injunction [Docket No. 10] is DENIED AS MOOT.
4. India's Motion for Summary Judgment [Docket No. 16] is DENIED.
5. Mariposa shall file an answer or otherwise respond to India's Complaint [Docket No. 1] on or before Thursday, March 26, 2009.

Dated: March 5, 2009

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge